

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

CELLULAR COMMUNICATIONS  
EQUIPMENT LLC,

Plaintiff,

v.

HTC CORPORATION, *et al.*,

Defendants.

Civil Action No. 2:16-cv-00475

JURY TRIAL DEMANDED  
(CONSOLIDATED LEAD CASE)

CELLULAR COMMUNICATIONS  
EQUIPMENT LLC,

Plaintiff,

v.

ZTE CORPORATION, *et al.*,

Defendants.

Civil Action No. 2:15-cv-00476

JURY TRIAL DEMANDED

**STIPULATION OF DISMISSAL WITHOUT PREJUDICE  
AS TO DEFENDANTS ZTE CORPORATION AND ZTE SOLUTIONS, INC.**

Plaintiff Cellular Communications Equipment LLC (“CCE”) and Defendants ZTE Corporation, ZTE (USA) Inc., and ZTE Solutions, Inc. submit the following Stipulation of Dismissal Without Prejudice as to Defendants ZTE Corporation and ZTE Solutions, Inc. and, in support thereof, state:

1. The live complaint in Civil Action No. 2:15-cv-476 is CCE’s First Amended Complaint dated July 11, 2016. The First Amended Complaint names ZTE Corporation and ZTE Solutions, Inc. as party Defendants.
2. ZTE Corporation, ZTE (USA) Inc., and ZTE Solutions, Inc. represent and warrant that:

- a. ZTE Corporation does not engage in activities under the Patent Act, 35 U.S.C. §§ 1-376, in the United States.
- b. ZTE Solutions, Inc. is formerly a corporation formed on or about July 20, 2010 pursuant to the laws of the State of Delaware. It was dissolved on July 11, 2013, having never commenced business as an affiliate of ZTE Corporation and/or ZTE (USA), Inc. It has no employees, sales representatives, or distributors, and it does not instruct, direct, or control—and has never instructed, directed, or controlled—any aspect of the business activities of ZTE Corporation or ZTE (USA), Inc. Furthermore, ZTE Solutions, Inc. is not, and has never been, responsible for or otherwise involved with the development, manufacture, or sale of ZTE wireless mobile devices.
- c. ZTE Corporation, ZTE (USA) Inc., and ZTE Solutions, Inc. agree that for purposes of discovery in the above-captioned lawsuits, witnesses, documents and information in the possession, custody, or control of ZTE Corporation or ZTE Solutions, Inc., or any of their respective subsidiaries, are deemed also to be in the possession, custody, and control of ZTE (USA) Inc. ZTE (USA) Inc. will not object to a request for deposition on the grounds that the prospective deponent is an employee of ZTE Corporation or ZTE Solutions, Inc., or any of their respective subsidiaries (though nothing in this stipulation prevents ZTE (USA) Inc. from objecting to a deposition on other grounds).
- d. CCE and ZTE (USA) Inc. agree that any depositions of the officers or employees of ZTE Corporation or its subsidiaries who reside outside the United States, including personal and corporate depositions pursuant to Federal Rules of Civil Procedure 30(b)(1) or 30(b)(6), respectively, will occur at a location mutually agreed to by the parties in

Hong Kong. If the parties cannot reach agreement on the Hong Kong location, the issue shall be submitted to the Court for resolution consistent with procedures adopted by the Court for resolution of discovery disputes, and ZTE Corporation and ZTE (USA) Inc. and their respective deponents agree to abide by the decision of the Court. CCE and ZTE (USA) Inc. further agree to meet and confer in good faith in an attempt to resolve any disputes regarding the location of depositions prior to seeking resolution by the Court. For any such depositions taken in Hong Kong, ZTE (USA) Inc. agrees that CCE shall not be restricted to the use of U.S. consular or U.S. Embassy premises or consular officers for certification. The parties to this Stipulation further agree to waive any objection to a stenographer, provided the stenographer is authorized either under the law of the country in which the deposition is taken or is a notary public in one of the states, territories, or District of Columbia, of the United States.

e. ZTE (USA) Inc. is the proper party to defend against allegations made in the above-captioned lawsuits. Furthermore, ZTE (USA) Inc. or any assignee of ZTE (USA) Inc. is able to satisfy any judgment in the above-captioned lawsuits against it. ZTE Corporation, ZTE (USA) Inc., ZTE Solutions, Inc. each warrant and represent that they will not take any action that will cause ZTE (USA), Inc. to be unable to fully satisfy any such judgment.

f. Any and all claims or causes of action by CCE against ZTE Corporation or ZTE Solutions, Inc. relating to the patents-in-suit are tolled from the filing date of this dismissal and for such time as ZTE (USA) Inc. remains a party to Civil Action No. 2:15-cv-476; and

g. Upon being dismissed without prejudice from Civil Action No. 2:15-cv-476, ZTE Corporation and ZTE Solutions, Inc. (as well as any successor-in-interest thereto) will not initiate a declaratory judgment action against CCE based on liability under the patents-in-suit.

3. CCE expressly does not stipulate or agree to any of the foregoing facts, and reserves its right to dispute any of the foregoing factual representations.

4. In reliance upon the representations and warranties made in paragraphs 2(a) – 2(g), above, CCE agrees to dismiss ZTE Corporation and ZTE Solutions, Inc. without prejudice from Civil Action No. 2:15-cv-476 as allowed under Rule 41(a)(2) of the Federal Rules of Civil Procedure.

5. CCE has not released, and nothing in this Stipulation should be construed as a release or discharge of, any claim CCE has or may have in the future against any Defendant named in the above-captioned actions or any other asserted infringer of the patents-in-suit. All other rights have been expressly reserved.

Accordingly, CCE, ZTE Corporation, ZTE (USA) Inc., and ZTE Solutions, Inc. request that the Court enter the attached order dismissing ZTE Corporation and ZTE Solutions, Inc. without prejudice.

**Dated: October 27, 2017**

<u>/s/ Edward R. Nelson III</u> Edward R. Nelson III ed@nelbum.com Texas State Bar No. 00797142 Ryan P. Griffin ryan@nelbum.com Texas State Bar No. 24053687 Thomas C. Cecil tom@nelbum.com	<u>/s/ Nicole S. Cunningham</u> Steven A. Moore steve.moore@pillsburylaw.com California SBN 232114 Nicole S. Cunningham nicole.cunningham@pillsburylaw.com California SBN 234390 PILLSBURY WINTHROP SHAW PITTMAN LLP
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**CERTIFICATE OF CONFERENCE**

In accordance with Local Rule CV-7(h), the undersigned certifies that all parties are in agreement as to this stipulation.

/s/ Edward R. Nelson III

**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was served on all parties of record on October 27, 2017 via the Court's CM/ECF system.

/s/ Edward R. Nelson III